Calendar No. 171

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-246

CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT AMENDMENTS OF 1983

SEPTEMBER 28, 1983.—Ordered to be printed

Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1003]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1003), to extend and revise the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

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I. SUMMARY

As reported from Committee, S. 1003 amends and extends the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 through fiscal year 1987 at an authorization level of $27,500,000 for fiscal year 1984, $34,000,000 for fiscal year 1985, $35,500,000 for fiscal year 1986, and $37,080,000 for fiscal year 1987.

The bill requires that the Secretary of Health and Human Services perform a study of the national incidence of child abuse and neglect, including incidents involving the denial of nutrition, medically in-

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dicated treatment, general care, and appropriate social services to infants at risk with life-threatening congenital impairments. For purposes of this report, this term is intended to be read broadly to encompass seriously ill and/or handicapped infants.

The bill makes more explicit the definition of sexual abuse and drops the requirement that such abuse be for "commercial purposes" in order to be considered sexual abuse under the Act. The bill authorizes $4,000,000 for each of the next four fiscal years for funding sexual abuse prevention and treatment.

The bill also expands the duties of the Advisory Committee on Child Abuse and Neglect so that, at the Secretary's request, the Committee may assist the Secretary of Health and Human Services in coordinating adoption related activities of the Federal Government. In addition, the bill makes several revisions in the adoption reform language of the Act to continue the promotion of special needs adoption and to facilitate and improve the federal role in promoting adoption of children whose welfare is otherwise at risk. It authorizes $5,000,000 for each of the next four fiscal years to fund adoption opportunities.

The bill establishes a fifteen member advisory committee on seriously ill newborns, to be appointed by the Secretary of Health and Human Services, to conduct a comprehensive study of procedures in health care facilities that involve the medical treatment of seriously-ill newborns in order to make recommendations to the Secretary of Health and Human Services for new regulations, if deemed necessary, to insure medically indicated treatment of seriously ill newborns. Failure to comply with any such regulations shall result in loss of federal financial assistance, including medicare and medicaid payments.

II. Background and Need for Legislation

Although the Federal government has promoted children's welfare through legislation since 1912, a specific federal focus on child abuse and neglect was not established until 1974. In 1973, the then Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor conducted a series of hearings on efforts to combat child abuse and neglect. These investigations of state and local efforts to tackle the problems of child abuse and neglect yielded evidence which indicated a number of problems and concerns. These included: differences in the definitions of child abuse and neglect among states, incomplete identification and reporting; inadequate resources for conducting investigations and providing treatment services; understaffed child protective services units and undertrained workers; sparse prevention efforts; and a lack of coordination of child protection activities. These problems were leaving many children vulnerable to abuse and neglect and family members in many areas of the country without support or services to deal with the sensitive issue of family violence.

The Child Abuse Prevention and Treatment and Adoption Reform Act was originally enacted in 1974 as the Child Abuse Prevention and Treatment Act (P.L. 93–247). The Act authorized funds for a variety

of approaches to combat child abuse and neglect: training and technical assistance to public and private organizations; research and demonstration grants to agencies and universities; and grants to States. This Act further established the National Center on Child Abuse and Neglect (NCCAN) as the focal point for federal efforts to address this problem and to administer funds under this program.

Congress believed that a national response to the widespread incidence of child abuse and neglect was appropriate and necessary. On January 31, 1974, the President signed the Child Abuse Prevention and Treatment Act into law to provide federal leadership and assistance with identifying, treating, and preventing child abuse and neglect. This legislation provided for the establishment of a National Center on Child Abuse and Neglect to gather information, to conduct research, to provide technical assistance, to develop a clearinghouse on all programs for the prevention, identification and treatment of child abuse and neglect, and to make a full and complete study of the incidence of abuse and neglect. It includes the provision of grants for programs and projects which are directed at research, treatment, identification or prevention of child abuse and neglect and child sexual abuse. It also provides for grants to eligible states to provide these services.

In 1978, Congress passed the Child Abuse Prevention and Treatment and Adoption Reform Act (P.L. 95–266), which extended the child abuse prevention and treatment program and added new emphasis to support of programs to prevent and treat sexual abuse of children. This legislation also added a second title that established the adoption opportunities program. The adoption opportunities program was charged with encouraging and facilitating the adoption of children with special needs (i.e., children who are considered hard to place because of factors such as handicap, age or race). Title II authorized several specific projects to accomplish this goal.

In 1981, both the child abuse prevention and treatment program and the adoption opportunities program were extended through fiscal year 1983 as part of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35).

Table I shows the authorization and appropriation levels of the child abuse prevention and treatment program through fiscal year 1983.

TABLE I.—AUTHORIZATIONS LEVELS AND APPROPRIATIONS LEVELS, CHILD ABUSE PREVENTION AND TREATMENT PROGRAM, 1974–83

[In thousands of dollars]

	Authorization	Appropriation
Fiscal year:		
1974	$15,000	$4,500
1975	20,000	15,000
1976	25,000	18,928
1977	25,000	18,928
1978	28,000	18,928
1979	31,000	18,928
1980	34,000	22,928
1981	34,000	22,928
1982	17,000	16,200
1983	17,000	16,200

EXTENT OF THE CHILD ABUSE PROBLEM

Child abuse and neglect is defined as the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person responsible for the child's welfare. Child abuse and neglect occur in families from all socioeconomic levels, races, and nationalities. Children may suffer physical, emotional, psychological, and neurological damage because of abuse or neglect. Child abuse and neglect may also affect the cognitive and language development of children. Finally, much of the research suggests that abused or neglected children are more likely to become juvenile delinquents or abusive parents.

Professional capacities and resources to handle the problem of child abuse are still in their infancy. We have only begun to find effective ways to protect children and strengthen families. Despite private, state and Federal initiatives over the past years, we have yet to develop a means of preventing child abuse on the large scale on which it is occurring. Emphasizing volunteers and paraprofessionals who can be effective in prevention programs makes this a cost-saving approach in its own right.

In 1980 the General Accounting Office (GAO) identified child abuse as "a serious nation-wide problem" that needs more attention from the federal government. Continued national focus on child abuse from the federal government is essential.

The research that has been done has arrived at widely diverging estimates of the true incidence of child abuse and neglect. The American Humane Association (AHA) has compiled reports of child abuse and neglect from official State authorities since 1976. In that year, a total of 413,000 reports were collected from across the country. In 1981, the latest year for which statistics are available, the AHA received 851,000 substantiated reports of child abuse and neglect. While the total has been increasing steadily since this project began, largely because of improved report collection and public awareness, it is also generally acknowledged that the numbers do not represent the total actual incidence of child abuse.

The National Center on Child Abuse and Neglect (NCCAN) performed a study in the late 1970s on the national incidence of child abuse and neglect. (This study was mandated by Congress in the Cihld Abuse Prevention and Treatment Act.) The NCCAN study attempted to account statistically for unreported cases, and also for reported cases that were not ultimately substantiated. During the period of study (May 1, 1979 to April 30, 1980), the NCCAN researchers estimated that there were 652,000 cases of child abuse and neglect nationally.

Another approach to studying the incidence of child abuse was undertaken by researchers directed by Dr. Murray Straus of the University of New Hampshire. In 1975 they surveyed a representative sample of families concerning the extent of violence among family members. Based on the survey findings, Straus estimated that around 6.5 million children are at least slightly abused each year, and 1.8 million children are severly battered.

The widely varying findings of these three studies show the difficulty of assessing the true incidence of child abuse and neglect in

the U.S. While the incidence, according to the annual AHA survey, is increasing, some feel that the rise in reported cases may reflect a wider awareness of the problem and an increasing willingness of both professionals and the general public to become involved.

Reports of abused and neglected children are on the rise. A survey conducted in January 1983 by the National Committee for Prevention of Child Abuse found that the number of incidents increased by over 10 percent nationally from 1981 to 1982.

More than one in four states reported an increase in child abuse deaths in 1982, and among those states the number of deaths rose by 44 percent. In Connecticut, the number of children who died from abuse tripled between 1980 and 1982. Deaths in Utah quadrupled over the last three years. In Missouri, deaths were estimated to have increased by 25 percent over the past year.

We must continue our efforts in collecting accurate data on the incidence of child abuse and neglect and continue researching the causes of child abuse for prevention efforts to be successful. Strengthening prevention efforts through early identification of high risk parents who could be offered support services before abuse or neglect begins could contribute greatly to the reduction of child abuse.

Whether they represent better local reporting or an actual increase in child abuse and neglect itself, this Committee finds the number of cases of substantiated reports of abuse and neglect extremely alarming. These numbers represent hundreds of thousands of children and families in crisis. The reauthorization of this legislation at higher levels indicates the Committee's firm conviction that research, prevention and treatment efforts in the areas of child abuse and neglect and sexual abuse must continue with an identifiable national focus.

TREATMENT OF SERIOUSLY ILL NEWBORNS

In May, 1981, a decision was made to withhold treatment from handicapped Siamese twins born in Danville, Illinois. Intervention by authorities resulted in a widely publicized custody battle and the filing of criminal charges against the attending physicians and the parents.

In early April, 1982, a handicapped child, known to the public as "Infant Doe," was born in Bloomington, Indiana. The child was born with Down's Syndrome and other respiratory and digestive complications which required immediate medical intervention. The parents of the child made the decision to withhold medical treatment and nourishment from the child. The hospital brought this decision to the attention of county prosecutors who sought a court order removing the infant from his parents' custody and allowing corrective medical treatment. State and local courts approved the withholding of treatment and nourishment, and the infant died six days after birth while attorneys on behalf of the infant were preparing an appeal to the U.S. Supreme Court.

The wide publicity given the Infant Doe case in the popular press brought the practice of non-treatment out of the privacy of the medical setting and gave rise to significant public concern and widespread debate. Responding to this concern, on April 30, 1982, the White House sent a memorandum to the Attorney General and the Secretary of

Health and Human Services on the enforcement of federal laws prohibiting discrimination against handicapped persons. In this memoradum, the Secretary of HHS was instructed to notify health care providers of the applicability of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, to the treatment of handicapped infants. In addition, the Attorney General was ordered to report on the constitutional and statutory remedies available to prevent the withholding of medical treatment from handicapped persons.

On May 18, 1982, the Secretary of HHS sent a letter to 6,800 hospitals which receive federal financial assistance stating that it is unlawful under Section 504 of the Rehabilitation Act of 1973 to withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life threatening condition if (1) the withholding is based on the fact that the infant is handicapped, and (2) the handicap does not render treatment or nutritional sustenance medically contraindicated.

On March 7, 1983, the Department of Health and Human Services promulgated an interim final regulation under section 504 of the Rehabilitation Act of 1973 requiring federally-assisted health care institutions to display conspicuously notices in their delivery rooms, maternity and pediatric wards, and nurseries, including intensive care nurseries, advising that discriminatory failure to feed or provide customary medical care to handicapped infants is prohibited by federal law. The notice was to instruct persons having knowledge of proscribed discrimination to contact immediately a toll-free 24-hour HHS "hot line" or the state child protection agency. The regulations also authorized HHS to conduct immediate investigation and to direct hospitals to provide 24-hour access to their records and facilities during any investigation. Where legal action was deemed necessary, HHS would make immediate referrals to the Department of Justice.

A suit challenging the regulations was filed by the American Academy of Pediatrics, the National Association of Children's Hospitals and Related Institutions, Inc. and Children's Hospital National Medical Center. Disability rights and pro-life groups filed amicus briefs in support of the regulation. On April 15, the U.S. District Court for the District of Columbia invalidated the interim final regulation as arbitrary and capricious and promulgated outside the procedural requirements of the Administrative Procedure Act.

The court, in its opinion, concluded, in part,

> There may well be defects in medical procedures and hospital policies governing treatment of seriously disabled newborns in some hospitals. More fundamentally, the rising public debate over the role of physicians and family members in these difficult and sensitive situations where life may hang in the balance has raised issues which must eventually be faced at either the local or national level.

The highly publicized recent cases have catapulted the issue of withholding treatment from seriously ill newborn infants into the public arena, but the issue is not new to the medical community. A decade ago, a study [1] by two Yale physicians disclosed that 14 percent

[1] Duff, Campbell, "Moral and Ethical Dilemmas in the Special Care Nursery," *New England Journal of Medicine*, 289 : 890–894, 1973.

of the deaths at Yale/New Haven Hospital's special-care nursery were directly related to the withholding of care. As stated by the authors, "After careful consideration of each of these 43 infants, parents and physicians in a group decision concluded that prognosis for meaningful life was extremely poor or hopeless, and therefore rejected further treatment."

In some cases, these decisions may have been made in consideration of imminent and unavoidable death. In others, however, death was intentionally induced through the denial of treatment on account of the child's disabling condition. In one such case, an infant boy had Down's Syndrome as well as a surgically correctable intestinal obstruction that made it impossible to digest food. The parents ordered surgical treatment withheld, and seven days after birth, the infant starved to death. Seven other infants with meningomyclocele (spina bifida) also died as a result of treatment denial.

Unlike the decisions of competent adults to forego various forms of treatment, the authors acknowledge that in these cases, "The person most involved, the infant, had no voice in the decision." Moreover, the authors acknowledge that assumptions regarding imminence of medically unavoidable death and those regarding future "quality of life" are subject to error. "Prognosis was not always exact, and a few children with extensive care might live for months, and occasionally for years. Some might survive and function satisfactorily. We do not know how often families will make just decisions for severely handicapped children."

While various assessments of the disabled child's value or the child's probability of survival or the "meaningful life" for the child were cited by the authors as one rationale for denial of treatment, other factors beyond concern for the patients were involved. "Often . . . the parents' or siblings' rights to relief from the seemingly pointless, crushing burdens were important considerations." Some families feared that they and their other children would become socially enslaved, economically deprived, and permanently stigmatized, all perhaps for a lost cause." Beyond an estimation that the medical treatment for a child would have been "cruel," reasons for terminating his care regimen included considerations that the "family had endured high expenses (the hospital bill exceeding $15,000) and the strains of the illness were believed to be threatening the marriage bonds and to be causing sibling behavioral disturbances."

Yet the authors of this study maintained that decisions to deny life preserving treatment to disabled infants do need to be made: ". . . pretending that there is no decision to be made is an arbitrary and potentially devastating decision of default."

This study provoked much reaction throughout the medical community. Some professionals at the Yale-New Haven Hospital vehemently disassociated themselves from the opinions of the authors of the study:

> As consultants to the newborn special care unit, we wish to disassociate ourselves from the opinions expressed by the authors. The "growing tendency to seek early death as a management option" that the authors referred to has been repeatedly called to the attention of those involved and caused

> us deep concern. It is troubling to us to hear young pediatric interns ask first, "should we treat?" rather than "how do we treat?" We are fearful that this feeling of nihilism may not remain restricted to the newborn special care unit. To suggest that the financial and psychological stresses imposed upon a family with the birth of a handicapped child constitutes sufficient justification for such a therapy of nihilism is untenable and allows us to escape what perhaps after all are the real issues—i.e., the obligation of an affluent society to provide financial support and the opportunity for a gainful life to its less fortunate citizens.

The Court decision invalidating the Department of Health and Human Services' proposed rule criticized the Department for not taking the factors that might bear on the appropriateness of withholding treatment into account before proceeding with the proposed rule. However, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical Research, in its report entitled "Deciding to Forego Life-Sustaining Treatment" (March 1983), applies a strict standard for treating handicapped newborns that "excludes consideration of the negative effects of an impaired child's life on other persons, including parents, siblings, and society."

Three other studies suggest that the practice of withholding treatment from severely ill newborn infants may be more widespread than indicated by the Yale study. Although two of the three studies only surveyed physician attitudes rather than documenting physician practices, a 1971 survey of the medical faculty at the University of Washington found that 87 percent of the faculty favored withholding medical treatment in some cases, and that 80 percent had done so. This study, while reporting on physician practices, did not distinguish between infants facing imminent and unavoidable death and other infants whose chances of survival could be improved with medical treatment.

A national survey, conducted in 1975, and published in the journal *Pediatrics*, in 1977, of members of the surgical section of the American Academy of Pediatrics, indicated that 85 percent of the nation's pediatric surgeons and 65 percent of the pediatricians would acquiesce to parents' desires to allow a hypothetical Down's syndrome infant with congenital heart disease to die. Similar majorities supported deference to the parents' wishes to deny treatment to a Down's syndrome infant with correctable intestinal atresia or an infant born with spina bifida. In all three cases, an average of less than six percent of the pediatric surgeons and pediatricians would deny similar treatment to a non-disabled child. A great number of the physicians responding to the survey questionnaire felt that what might be a poor quality of life, in their estimation, was sufficient reason not to treat a child for a defect which may have been incompatible with life but nevertheless amendable to surgical correction. Only three percent of pediatric surgeons and 16 percent of pediatricians would seek a court order for the necessary surgery over the parents' objections, while 78 percent and 88 percent, respectively, would do so if the young child were not disabled but in need of cancer surgery.

The previously referred to report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research cited two studies based on surveys of pediatricians which reflected similar attitudes and practices. One, a 1976 survey of California pediatricians, indicated that most would honor parents' wishes not to treat Down's syndrome newborns who had life-threatening intestinal obstructions. A 1977 survey of Massachusetts pediatricians showed that 51 percent would not recommend surgery to correct intestinal blockages in newborns with Down's syndrome.

The Committee acknowledges that the surveys cited above are several years old, and recognizes that medical treatment of certain anomalies has rapidly advanced in the intervening years. However, if, since 1975, the anonymously surveyed physicians have been acting upon their convictions as reported, as exemplified by the publicized cases, then federal policy on the civil rights of handicapped persons, is being contravened.

Incidence of actual denial on the basis of disability is difficult to document, and rarely are cases brought to the attention of the legal authorities. According to the previously cited authors, Drs. Duff and Campbell, "This is understandable because most decisions in medicine involve confidentiality and, hence, secrecy. Even in semipublic places like a hospital, detailed deliberations are not open to scrutiny and, hence, the law has had little toward which to react."

Testimony submitted to the Subcommittee on Family and Human Services referred to the above statistical information in the medical literature, and provided first hand evidence of cases in which treatment had been withheld from seriously ill handicapped infants.

Dr. David M. McLone, Chairman of the Department of Pediatric Neurosurgery at Children's Memorial Hospital in Chicago, stated that of the last 200 child patients with spina bifida referred to his hospital for treatment, "10 children had been denied prompt surgical therapy prior to transfer to our hospital." McLone said, "If this sample is assumed to be representative, then the incidence of delayed care may be on the order of some 5 percent of newborns with spina bifida." It is estimated that the annual U.S. incidence of spina bifida births is approximately 8,000. A 5 percent rate of denied or delayed treatment would mean that 400 infants with spina bifida are subjected to some form of nontreatment during each year.

Surgeon General C. Everett Koop testified before the Subcommittee that he had "received over 20 contacts in recent months from nurses who objected to carrying out orders from doctors to deny food to handicapped newborns."

The Committee is aware that not all medical problems of handicapped infants are medically or surgically treatable. In his testimony before the subcommittee, Dr. Koop stated:

> Let me stress here that some problems are simply not correctable. Some handicapped infants, unfortunately, face imminent death. For such infants it is very important to note that we do not seek to fruitlessly prolong the process of dying, rather, we seek to guarantee that infants who would live, given ordinary care, will not be denied the opportunity for life by those who would decide that their lives are not worth living.

Several witnesses before the subcommittee stressed the need for physicians to be fully informed about a handicapped infant's disease or disability.

Dr. Koop set forth the following principles to guide physicians:

> The physician must know a great deal about the infant's disease process or disabling condition. As science and medicine continue to evolve, this is an ever-growing responsibility and requires that physicians must have great knowledge about and experience with the lesion in question . . . The physician must sit down with the family and thoroughly go through the nature of the infant's condition, what the medical experience with such a condition has been so far, what kinds of things can be done immediately, and what the options may be later on.

Dr. George A. Little, representing the American Academy of Pediatrics, in referencing the work of the Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, testified as to the problem that "parents receive outdated or incomplete information from their physicians, and this limits their capacity to act as surrogate decision makers."

Dr. David McLone, speaking of infants with spina bifida, stated:

> The single most common reason for the denial of care was lack of recent information on available treatment and the outcome of that treatment. When confronted with recent developments in medical care and documented advances in patient outcome by physicians with substantial experience in the care of these children, most of these parents and physicians were able to resolve their doubts and decide in favor of treating the child. In most cases then, continuing education of the public and professionals provided the solution of the dilemma.

Another theme brought forward in the testimony of several witnesses is the need to provide parents of handicapped newborn infants access to all available support programs. Both Dr. Koop and Dr. Little spoke of the importance of the role various social service agencies, as well as health care providers, play in assisting families in their decision-making process.

Finally, several witnesses spoke to the question of denying food and water to severely handicapped newborn infants. In the words of Dr. Koop:

> . . . the bottom line in all these cases is that you must nourish the patient. Whether an infant in a hospital is denied food and care, or whether an infant at home is denied food and care, the result is the same; it is child abuse.

Paul Ramsey, Professor of Religion at Princeton University, in testimony before this Subcommittee, expressed similar convictions.

Dr. Little expressed his views as follows:

> Obligations to comfort and respect a dying person remain, and infants whose lives are destined to be brief are owed whatever enhancement and relief from suffering that can be provided, including medication for pain and sedation, as appropriate.

Under the fundamental tenets of our society, the life of an able-bodied or disabled human being should not be brought to a premature end by parental, physician, or hospital committee decree. Where death is imminent and inevitable, and where medical intervention merely forestalls the inevitable, this Committee acknowledges that refraining from medical intervention may be an ethically and legally acceptable course. Where death is avoidable through surgical and other therapeutic means that customarily are provided to non-disabled children, however, the denial of such treatment is clearly abusive to children and is a violation of the disabled child's most fundamental rights.

Although the witnesses who testified before the Subcommittee differed markedly in their views as to the appropriate response to instances of withholding treatment from severely handicapped infants, all agreed that there is a sufficient body of evidence that such cases do occur and that it is an issue that needs greater scrutiny and remedial action.

ADOPTION OPPORTUNITIES PROGRAM

The adoption opportunities program was established and authorized through fiscal year 1981 by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (P.L. 95–266). This legislation set forth five goals to facilitate and encourage the adoption of children with special needs: (1) issuance of model legislation as a guide to States when considering adoption legislation; (2) issuance of a study of unlicensed (independent) adoptive placements; (3) development and operation of a national adoption and foster care data-gathering system; (4) development and operation of a national adoption information exchange system; and (5) the provision of training, technical assistance, and educational materials concerning the adoption of special needs children.

In 1981, the adoption opportunities program was reauthorized through fiscal year 1983, by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97–35).

Table 2 shows the authorization and appropriation levels of the adoption opportunities program for fiscal year 1978 to fiscal year 1983.

TABLE 2.—AUTHORIZATION AND APPROPRIATION LEVELS, ADOPTION OPPORTUNITIES PROGRAM, 1978–83

	Authorization	Appropriation
Fiscal year:		
1978	$5,000	
1979	(1)	$5,000
1980	(1)	5,000
1981	(1)	5,000
1982	2,000	1,900
1983	2,000	1,900

[1] Authorization was for such sums as necessary.

The first two goals of the adoption opportunities legislation—the issuance of model State adoption legislation and the study of independent adoptive placements—have been completed. The goal of providing of training, technical assistance, and information is being carried out through ten Department of Health and Human Services regional resource centers. The adoption and foster care data-gathering

system and the adoption information exchange system have both been developed by grantees and began operation in early 1983.

The adoption and foster care data-gathering system will collect important statistics from the States on the number of adoptions each year, the characteristics of the children and parents involved, and the types of services offered by the States in adoption, foster care, and other child welfare areas. No national statistics on adoption have been available since 1975, and experts are currently unsure even of how many adoptions take place each year.

The adoption information exchange system is using computers to match children who are free for adoption with parents who are seeking to adopt a particular type of child. Exchanges of this type have been operating locally for some time. The national exchange will eventually link local and regional information exchanges and match adoptive parents and waiting children across the entire country.

ADOPTION OF CHILDREN WITH SPECIAL NEEDS

Virtually all children currently free for adoption in the United States are so-called special needs children, i.e., children who are older, members of minority groups, in sibling groups, or who are mentally or physically handicapped. While all States have some type of adoption subsidy program, and many agencies aggressively recruit adoptive parents, a significant number of these children are never placed, but live until adulthood in foster care. Congress enacted the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96–272) to help ameliorate this problem. This legislation established the adoption assistance program, which provides payments to States for adoption subsidies for certain children with special needs. This program became fully operational in 1983 and is expected to subsidize the adoption of 3,000 children this year. There are, however, an estimated 100,000 children free for adoption at any given time, almost all of whom are children with special needs.

Some experts believe that many families would adopt a special needs child if they could receive help from a local agency in locating a particular child, getting information on the adoption procedure, and receiving supportive assistance concerning the unique problems and challenges of adopting a "special" child. This approach can be effective only if resources and information, sometimes of a national scope, are available at the local level. The adoption opportunities program was enacted to provide this type of help, by offering information, training, and technical assistance to individuals, local groups, and State Government.

III. Hearings

The Subcommittee on Family and Human Services conducted three hearings on the reauthorization of the Child Abuse Prevention and Treatment and Adoption Reform Act.

The witnesses at the first day of hearings on the withholding of treatment from handicapped infants were: Dr. C. Everett Koop, U.S. Surgeon General; Ms. Betty Lou Dotson, Director of the Office of Civil Rights, Department of Health and Human Services; Dr. George Little, neonatologist from Dartmouth College; Dr. David McLone,

pediatric neurosurgeon, Chicago, Illinois; Father John Paris, professor of ethics, College of the Holy Cross; Dr. Paul Ramsey, professor of religion, Princeton University; Dr. John McGee, psychologist, University of Nebraska Medical Center; Mrs. Karen Green-McGowan, Registered Nurse; and the Rossow family from Ellington, Connecticut.

The witnesses at the second day of hearings on the causes and prevention of child abuse were: Mr. Clarence Hodges, Commissioner, Administration on Children, Youth and Families, Department of Health and Human Services; Mr. Wayne Holder, Director of the Children's Division, American Humane Association; Dr. Eli Newberger, pediatrician, Boston Children's Hospital; Mr. Gregory Loken, Senior Staff Attorney at Covenant House, New York, New York; Mrs. Thelma Bigger, President of the Alabama chapter of Parents Anonymous; Mr. Arnie Sherman, National Director of Camp Fire; Inc.; Mr. Timothy McNally, Johnson & Johnson, Inc.; Miss Francine Vecchiolla, Director, Connecticut Children Protection Program; Dr. Marty Palmer, Director of Ambulatory Care, Primary Children's Hospital, Salt Lake City, Utah.

The witnesses on the third day of hearings on obstacles to the adoption of special needs children included: Dorcas Hardy, Assistant Secretary for Human Development Services, Department of Health and Human Services; Marlene Piasecki, Director of the National Adoption Exchange; Toni McHugh, Chairman of the Board of Directors of the National Committee For Adoption; Kathy Sreedhar, Adoption Representative for the Missionaries of Charity; Robert W. DeBolt, Founder of Aid to Adoption of Special Kids; Clara Valiente-Barksdale, Executive Director of the New York Council on Adoptable Children; Laurie Flynn, Director of the North American Council on Adoptable Children, Incorporated; and Elaine P. Winslow, President of Alabama Friends of Adoption.

IV. Committee Views

CHILD ABUSE PREVENTION AND TREATMENT

The Omnibus Budget Reconciliation Act of 1981 authorized appropriations for fiscal years 1982 and 1983 for the state grant and discretionary grant components of the Child Abuse Prevention and Treatment and Adoption Reform Act. These authorizations expire on September 30, 1983.

The Committee recognizes that child abuse and neglect are serious national problems. Although the states and local governments take the lead in addressing these problems, the Committee believes that continued federal assistance in this area is important. Several witnesses presented testimony before the Subcommittee on Family and Human Services that described the contributions made by the National Center for Child Abuse and Neglect in identifying, preventing and treating child abuse and neglect.

Therefore, the Committee has approved without opposition S. 1003, which revises and extends the provisions of the Child Abuse Prevention and Treatment and Adoption Reform Act and authorizes appropriations for four fiscal years—through the end of fiscal year 1987, to carry out the provisions of the Act.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT (NCAAN) STUDY

S. 1003 amends Section 2(b)(6) of the Act to require the National Center for Child Abuse and Neglect to study and investigate the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number and severity and a determination of those incidents of child abuse and neglect that involve the denial of nutrition, medically-indicated treatment, general care, or appropriate social services to infants at risk with life-threatening congenital impairments. In gathering this information, the National Center for Child Abuse must establish guidelines and work with other appropriate agencies to collect this data. In addition, the Committee intends that following the data collection, the National Center on Child Abuse and Neglect will make appropriate legislative or regulatory recommendations, if needed, based on their findings and that this study will be completed no later than one year following enactment.

Several witnesses testified at hearings before the Subcommittee on Family and Human Services that there are a number of children in this country who are denied nutrition and medically indicated treatment. However, there are presently no empirical data on the extent of such incidents. Evidence presented to the Committee indicates that such data collection is necessary. The Committee recognizes that the study may be difficult to conduct, but believes that the one year period allotted for the study will give the National Center sufficient time to conduct a thorough and in-depth investigation into this problem.

SEXUAL ABUSE

S. 1003 amends Section 3 of the Child Abuse Prevention and Treatment Act by further clarifying the definition of sexual abuse. S. 1003 defines sexual abuse as including:

> The obscene or pornographic photographing, filming or depiction of children, or the rape, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed thereby, as determined in accordance with regulations prescribed by the Secretary.

S. 1003 further changes the sexual abuse definition by dropping the phrase "for commercial purposes" after the word "children."

The Committee believes that all obscene or pornographic photographing, filming, and depiction of a child is damaging to the child regardless of whether it is for commercial purposes or not. The Committee believes that adding this language to the definition section of the Act will further clarify what actions constitute sexual abuse of children and permit the intervention of child protective services personnel.

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

S. 1003 amends section 6(a) of the Act by deleting language requiring that certain agencies and bureaus be represented on the Advisory Board be available, at the Secretary's request, to assist the Secretary

named in the Act no longer exist due to retitling or consolidation. S. 1003 permits the Secretary to appoint to the Advisory Board representatives of the agencies who currently are most directly involved in the prevention and treatment of child abuse.

S. 1003 further amends Section 6(a) to instruct that the Advisory Board be available, at the Secretary's request, to assist the Secretary in coordinating adoption related activities of the Federal Government. The Committee urges the Secretary to utilize fully this board in adoption issues because of the Committee's continuing concern that more federal leadership may be necessary to assure maximum opportunities for placement. It is the Committee's hope that the expansion of the advisory board will further this leadership role. The Committee is concerned that there is, at present, a lack of coordination among the various agencies of the Federal Government that administer programs which encourage the adoption of children into permanent homes. Rather than establish an entirely new advisory board specifically for adoption related matters, however, the Committee believes it is preferable to allow the Secretary to expand the responsibilities of the existing Board if the Secretary believes it can help in coordination efforts.

CHILD ABUSE AUTHORIZATIONS

S. 1003 provides a four-year reauthorization of Federal activities relating to child abuse and adoption assistance at increased authorization for Fiscal Year 1984 through Fiscal Year 1987 at levels of $27,500,000 for Fiscal Year 1984, $34,000,000 for Fiscal Year 1985, $35,500,000 for Fiscal Year 1986, and $37,080,000 for Fiscal Year 1987. As a result of its oversight hearings on the activities of NCCAN and the states' activities relating to child abuse, the Committee moved to reauthorize at increasing funding levels all Federal activities, including states grants and authorization of activities to treat, to identify and to prevent sexual abuse. The Committee further urges an appropriation of the full authorization level for the programs authorized under this title.

During the past year, the reported incidence of child abuse in states across the nation has increased by over 10 percent. It is the committee's intent that the increased authorization will enable further research and the funding of additional demonstration projects to determine the underlying causes of child abuse. States will then have additional resources to help prevent child abuse, which has been estimated at over one million reported cases during 1982. In addition, the Committee has authorized the funding of programs for identification, prevention and treatment of sexual abuse in response to reports that sexual abuse is also increasing.

The Committee also learned that state agencies are ill-equipped to handle the increasing number of child abuse cases. At the same time that states are experiencing increases in reports of child abuse, in reports of children being abused more severely and in numbers of deaths caused by child abuse—as well as an increase in the amount of reported sexual abuse—federal and state funding reductions to child protective services agencies have resulted in layoffs of staff and cutbacks in services for abused children.

It is the Committee's desire that no less than $9,500,000 of the federal funds appropriated for child abuse be appropriated for state grants. Although this funding is increased, it is still the Committee's desire that states continue to encourage the nurturing of voluntary efforts, including parent groups, in the provision of services to children who are victims of child abuse. Furthermore, the Committee intends that at least part of the increased funding of services shall be used specifically for the prevention of, rather than the treatment of, child abuse. Also, a portion of the increased funding authorized for 1984 shall be used for the activities described in Title II to establish within the Department of Health and Human Services a committee on seriously ill newborns to study local decision making procedures within hospital facilities for the care and treatment of seriously ill newborns. The Committee intends that Title II of the bill have no budget impact in 1983. Any costs associated with the establishment of those provisions in Title II of this Act must be absorbed within existing appropriations.

TREATMENT OF SERIOUSLY ILL NEWBORNS

The Committee is extremely concerned about evidence presented to the Committee in its hearings that, in some instances, treatment is being inappropriately denied to seriously ill handicapped infants because of their handicaps and about evidence that this practice is not isolated to one or two instances.

In view of several widely publicized cases, the Committee agreed that there is a need for more information about the actual processes and circumstances under which decisions are made regarding the treatment of seriously ill handicapped infants in order to ensure that these infants are not denied medically indicated treatment due to their handicap. The Committee mandated establishing within the Department of Health and Human Services an advisory committee on seriously ill handicapped infants to conduct a comprehensive study of decision making procedures in health care facilities that involve the medical management of seriously ill handicapped infants.

The Committee, comprised of 15 members, is to be appointed by the Secretary of Health and Human Services. The membership shall include five members of the public distinguished in the fields of law, medicine, or ethics relating to the care of seriously ill infants; three individuals, nominated by national organizations to represent the hospital industry, the medical and nursing professions, including at least one physician; and five individuals nominated by national organizations that represent the interests of the handicapped, parents of the handicapped, and those concerned with assuring proper care, treatment and survival of seriously ill handicapped infants.

It is the intention of the Committee that the advisory committee study the procedures followed by health care facilities in providing the parents of seriously ill handicapped infants with adequate information regarding the nature of the anomoly, treatment available and other pertinent medical information. The advisory committee shall also explore hospital access to the full range of outside information including parent counseling, support services for handicapped infants and adoption alternatives for infants with chronic illnesses. The ad-

visory committee will study the utilization of such services within the hospital and those sources outside the hospital; and the committee will review the medical, legal and ethical literature to identify current medical practices and applicable legal standards in making its report and recommendations to the Secretary.

This committee's report and recommendations shall be completed and transmitted to the Secretary of Health and Human Services within six months following enactment of this legislation. Within sixty days following receipt of the report, the Secretary shall submit copies of the report to both the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor, along with any additional comments the Secretary may wish to include.

S. 1003 authorizes the Secretary to issue regulations, if deemed appropriate, concerning the establishment of local decision-making procedures with regard to seriously ill handicapped infants which procedures will at a minimum guarantee that each health care facility will provide such infants proper feeding and appropriate medications for pain and sedation.

The Committee recognizes that there are many ways to provide nutrition in addition to oral feedings, and health care professionals must provide nourishment to the infant in the medically appropriate manner.

If the Secretary, after review of the advisory committee's recommendations, determines there is a need for the regulations, the Secretary may require the establishment and maintenance of decision-making procedures within each health care facility with regard to the care and treatment of seriously ill handicapped infants. These procedures should include methods to assure that the best medical information is being used, and to assure that the life of the handicapped infant is being appropriately protected. This is by no means exhaustive of the remedies the Secretary may prescribe.

Title II of S. 1003 proscribes the Secretary from prescribing any standard of medical care except to the extent that other federal law empowers the Secretary to set medical standards. No provision of S. 1003 may be so construed to limit or lessen any right or protection under Section 504 of the Rehabilitation Act of 1973.

Finally, in the event the Secretary should promulgate regulations, title II of S. 1003 provides that failure of local health care facilities to comply with the regulations issued by the Secretary will result in loss of federal financial assistance including payments made pursuant to Title XVIII and Title XIX of the Social Security Act.

SAVINGS PROVISION

When parents decline to provide medical care for their children for religious reasons, serious legal questions arise as to what constitutes negligent treatment. Traditionally, states have handled these situations through the courts and administrative agencies, relying upon the authority of common law, statutes dealing with child abuse and neglect, and other apropriate state, civil and criminal statutes.

Despite the Supreme Court's longstanding constitutional protection of the primary right of parents to make decisions regarding the welfare of their children, the Court has also consistently ruled that that

right does not extend to parents whose religious beliefs lead them to deny medical care to their children. In 1944, in *Prince* v. *Commonwealth of Massachusetts* the Supreme Court ruled that "parents may be free to become martyrs themselves, but it does not follow that they are free to make martyrs of their children before they have reached the age of full and legal discretion, when they can make that choice for themselves." The Court has reaffirmed the legitimacy of government intervention when the denial of medical treatment would gravely endanger the child, or when denial would cause severe health consequences for the child.

In 1974, in issuing regulations to implement the Child Abuse Prevention and Treatment Act, the then-Department of Health, Education and Welfare construed the federal definition of "child abuse and neglect" neither to require nor to prohibit the states from including denial of medical care in their definitions. But, if the states did include provisions for such denial, the regulations required that they exempt from coverage a "parent or guardian legitimately practicing his religious beliefs (who) thereby does not specify medical treatment for a child."

New regulations issued by the Department of Health and Human Services in January 1983, modified the prior regulations in that states are no longer required to exempt parents who deny medical care to their children for religious reasons from being found culpable of child abuse or neglect. Those states which now exempt religiously motivated withholding of care to their children from their definitions of abuse and neglect are free to continue to do so; but if they do maintain such an exemption, those state statutes must permit intervention to provide medical care to children by state judicial authorities as well as state administrative authorities.

Section 8 of the Committee bill seeks to remove any confusion under the Act with respect to the States' obligations to modify their child abuse and neglect statutes, by making it clear that nothing in the Act is intended to override state laws which take religious practices into consideration in their laws governing child abuse and neglect.

FINDINGS AND DECLARATION OF PURPOSE FOR ADOPTION OPPORTUNITIES

This legislation renews a necessary Federal focus on promoting the placement of thousands of institutionalized and foster care children with permanent, adoptive families, and acknowledges the importance of adoption for infants and children whose welfare may otherwise be at risk.

The experts who testified before the Family and Human Services Subcommittee on April 14th estimated that 100,000 children now in foster care are eligible for adoption. Over 95 percent of these children have special needs which can be defined as mental, physical, or emotional handicaps; members of sibling sets; or members of minority ethnic groups.

Many families across the country wish to adopt these special needs children but face serious obstacles. These obstacles include, among others, difficulty obtaining information about children legally available for adoption and inability to complete preliminary bureaucratic

procedures needed for homestudies. Another concern is the lack of knowledge of the adoption subsidy under the Social Security Act which is designed to defray the cost of care, including medical treatment, for adopted special needs children. There is also uncertainty about the availability of medical benefits for adopted children.

As a result of multiple barriers to adoption, thousands of special needs children in this country reach age 18 without ever having known a permanent home. Clara Barksdale of the New York Council on Adoptable Children testified that last year, 53 percent of all foster care children in New York City were discharged on their own care. Subsequently, many such children must seek shelter on the streets. Some fall prey to delinquency and others suffer from chronic emotional problems. In order to prevent such tragedies, the Committee intends S. 1003 to establish the strongest possible federal commitment to finding permanent homes for all special needs children eligible for adoption. The Committee intends to provide further federal leadership in identifying and removing barriers to adoption, especially for children with special needs.

S. 1003 amends the findings of the adoption opportunities title to acknowledge the imortance of adoption for those seriously ill handicapped infants with life-threatening congenital impairments who are born to parents unable to care for them. The Committee received testimony from Carl and Rachel Rossow, parents of eleven adopted handicapped children, on the need for providing prospective adoptive parents of handicapped infants with necessary information and supports.

During the series of Subcommittee hearings on family breakdown, the Committee reviewed the testimony of experts on American families who express grave concern for the future of some children born to some unmarried, teenaged girls. Poverty, lack of educational attainment, and employment difficulties can be directly linked to growing up with a single, or never-married mother. In a recent report by the National Center for Health Statistics, submitted to the Subcommittee in testimony of the National Committee For Adoption on April 14, 1983, Dr. Christine Bachrach compares the characteristics of never-married mothers to adoptive mothers from data collected from the National Survey of Family Growth in 1976. She summarizes the impact on children in this way: "The data . . . reveal a sharp contrast between the privileged economic circumstances of adopted children and the extremely disadvantaged economic status of children with never-married mothers. Adopted children also appear advantaged with respect to the presence of a father in the household and the educational attainment of their mothers." (*Journal of Marriage and The Family*, February 1983, page 178.) The Committee believes that some children born to some unmarried minors will benefit from adoption.

The Federal government can provide assistance in the promotion of quality standards for adoption services. Such a role was included in provisions of the original Act and the Committee feels that it should be retained. There are several important phases to adoption services, including appropriate counseling to biological parents about the option of adoption, and services to the prospective adoptive family before, during and after the adoption of a child has occurred.

There are various levels at which adoption standards for services can be developed. This could start with individual agencies providing adoption services, to state and national efforts to prepare and promote adoption counseling services standards at the local, state and national levels by government and the voluntary sectors and that information shared can offer much to the improvement of adoption practices in our country.

This legislation acknowledges the need for building a better set of standards for post-level adoption services, especially for families who have adopted older, handicapped or other children with special needs. Ongoing services to support adoptive families are being developed by many agencies. For examples, it was brought to the Committee's attention that a group of voluntary adoption agencies are currently developing a Model Statement for Post-Legal Adoption Services. A recent report on a longitudinal study of adoptive and nonadoptive families noted that there is a crucial need to expand and formalize post-legal adoption services to adoptive families (*Prediction in Child Development* by Jane L. Hoopes, Child Welfare League of America, 1982, p. 100). The Committee believes that this legislation can provide the framework for Federal assistance in the development of good adoption services for the 1980's, including expanded post-legal adoption services programs.

STATE LEGISLATION FOR ADOPTION OPPORTUNITIES

The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (P.L. 95–266) called for the development of a Model Adoption Act. The Department of Health and Human Services carried out this legislative mandate with the publication of the final Model Act for the Adoption of Children with Special Needs on October 8, 1981. This publication has been disseminated by HHS and private organizations to State legislatures, State child and family services departments, and to organizations and agencies supportive of improved state adoption laws. However, improvements in state laws are still needed and HHS should help coordinate with adoptive families and organizations representing minority children in need of adoptive homes, along with agencies and governmental bodies, to improve State legislation.

The Department of Health and Human Services needs to provide more direct leadership to states in the implementation of this Act. While there is currently a problem within DHHS of coordination of adoption-related programs, the Committee urges the Secretary to unify and coordinate these programs. The Secretary of Health and Human Services should also review the Model Act to facilitate adoption opportunities for seriously ill handicapped infants. Slight modifications in state law regarding termination of parental rights may be an area which the Secretary may wish to consider.

INFORMATION AND SERVICES

Current law requires coordination of all adoption-related activities of the Federal government by the Secretary of HHS. Testimony received by the Subcommittee on Family and Human Services sug-

gests that little coordination actually exists. The Committee feels it is appropriate to include in S. 1003 an illustrative list of programs that should be included in the coordination process. This list is not intended to be inclusive.

There should be a continuum of services to children, biological parents, infertile couples considering adoption and families that have adopted children. Agencies that offer pregnancy counseling often ask adoptive parents and adopted adults to meet with pregnant young women and their families to describe why adoption has been positive for them. For example, a study is now being conducted with the assistance of Federal adoption opportunities funds in Illinois, in which an adoptive parent representing the North American Council on Adoptable Children is meeting with pregnant teenagers to assess their reasons for not choosing adoption.

On the other hand, according to the National Committee for Adoption, agencies, the national and regional adoption exchanges and adoptive family groups are aware from many years of aggressive recruitment of families to adopt children, that a major resource for many of the waiting children are couples experiencing infertility. In the previously cited study of adoptive mothers it is shown that 9 percent of couples who experienced infertility for nonconcontraceptive reasons had adopted a child—far above the estimated national average of 1–2 percent for all married couples. Given this evidence the Committee feels that infertile couples should not be overlooked as a potential population of adoptive parents specifically for children with special needs. The Committee feels that this service will be one that conforms to the suggestion of Mr. Robert Debolt, President of Aid to Adoption of Special Kids, to test new creative, and faster ways to place special needs children. Supportive services are essential to adoptive parents of handicapped infants and children and this legislation enlists the Federal government in assisting in the planning and coordination of such activities in HHS for these families as well.

FEDERAL ADOPTION AND FOSTER CARE DATA GATHERING

Since 1975, there has been no Federal report on the number and characteristics of children adopted each year in the United States. The last report, "Adoptions in 1975" was issued by the National Center for Social Statistics, Department of Health, Education, and Welfare in 1977 and relied upon voluntary reporting of only 31 states. The adoption opportunities law, since its enactment in 1978 has called for the establishment of a national adoption and foster care data gathering and analysis system. Unfortunately, this requirement of law has not yet resulted in any reports. The Committee believes that more accurate information about the number of children in foster care and those living in adoptive homes must be collected.

In testimony delivered before the Subcommittee on Family and Human Services by the Director of the Bureau of the Census, Bruce Chapman, Mr. Chapman acknowledged the lack of data concerning adoption and expressed a desire to do more extensive investigation on this topic through Census data-collection. The Committee has specifically referenced the Bureau of the Census in the legislation so that

the Secretary of HHS will coordinate data collection efforts with the Bureau.

The Committee also believes that statistically reliable sample data, such as is collected in the National Family Growth Survey can provide useful information about the characteristics of adoptive families and the characteristics of women who choose adoption for their child. Therefore, the Committee recommends that the Secretary of HHS consult with other appropriate agencies, as well as the Bureau of the Census, to determine what can be done to gather relevant data on foster care and adoption from on-going surveys. The Committee does not want the Secretary to rely only on voluntary State reporting for data-gathering and analysis purposes.

MAINTAINING A NATIONAL ADOPTION EXCHANGE

The Committee retains this section of the current law and expresses concern that the Department of HHS work with the Exchange system to see that more children who are free for adoption estimated at over 100,000 will be able to use the services of the Exchange. The Committee believes the current goal of 1,000 registrations which is only one percent of the estimated population is too small relative to the thousands of children in need of permanent adoptive homes. The Committee supports the development of an exchange network using telecommunications and computerized matching procedures so that children waiting for homes can find them regardless of where they live in the United States. The Committee will be requesting periodic reports on the effectiveness of the National Adoption Exchange pursuant to the enactment of this legislation.

TECHNICAL ASSISTANCE THROUGH ADOPTIVE FAMILY GROUPS AND MINORITY GROUPS

The Committee urges the Secretary to draw upon organizations concerned about the increase in children in foster care, particularly minority children, in order to encourage the adoption of special needs children. Minority groups can provide information regarding barriers to minority adoption, including attitudes of adoption agencies and governmental bureaucracies towards prospective minority adoptive parents. Such groups can help to recruit minority families to adopt minority special needs children. In addition, minority groups can offer recommendations about trans-racial adoption as another alternative to the adoption of children with special needs. The Committee also urges the Secretary to draw upon the resources of those organizations and persons who can have an influence on presenting adoption positively.

ENCOURAGING THE INVOLVEMENT OF CORPORATIONS IN SUPPORTING ADOPTION

In an effort to involve the initiatives of the private sector, S. 1003 specifically directs the Secretary to encourage involvement of corporations and small businesses in developing programs and supporting community efforts which support adoption. For example, the National Committee For Adoption, a private national organization, assists com-

panies which are interested in developing adoption benefit plans for the employees by providing samples of adoption benefit programs and linking up employee benefit officers of a company considering the plan. The Subcommittee also received testimony from a corporation executive who strongly supports the establishment of private corporate adoption benefit programs.

STUDYING THE EFFECT OF UNLICENSED ADOPTION PLACEMENTS, INCLUDING SURROGATE PARENTING ON CHILDREN

The Committee supports and encourages legal interstate adoption; however, it remains concerned about the operation of illegal, black-market, adoption activities which often occur across State lines.

The Committee is also concerned with the implications that surrogate parenting arrangements have for State adoption laws. It is the view of the Committee that the Secretary of HHS should request the states to keep her informed of State developments in this area.

AUTHORIZATION OF ADOPTION OPPORTUNITIES

The Committee is supportive of activities which serve to increase adoption opportunities for children in need of permanent, adoptive families and the increased appropriation recommended for the Adoption Opportunities Program is intended to further these efforts.

The Committee encourages Federal leadership to states in ensuring placement of children with special needs. The Committee also hopes that this additional funding will provide even greater effort, especially through the National Adoption Exchange, on the permanent adoptive placement of the estimated 100,000 special needs children currently free for adoption. The Committee also strongly believes that more effort is needed at the Federal level to see that current, accurate data is gathered and analyzed about the children in foster care and those who are adopted.

The Committee intends the increased authorization to provide funding for the expansion of the scope of the Adoption Opportunities program to address the adoption alternatives for handicapped infants including those born seriously ill. The increased authorization should also serve to augment the coordination of adoption services through the Federal Government. It is the Committees wish that attention be given to the importance of adoption for the welfare of some infants born to some unmarried adolescent parents. Although the Committee bill expands the scope of activities of adoption opportunities, none of these additional activities should detract from eliminating barriers to the placement of special needs children who are of school age, handicapped, or both. The Committee recommends an authorization level of $5 million. The Committee also urges an appropriation of the full amount for the Adoption Opportunities program.

V. Regulatory Impact Statement

The Committee has determined that there will be minimal increase in regulatory burden or paperwork imposed by this bill. The advisory committee on seriously ill newborns, created under title II of this bill, will submit to the Secretary a study of local decisionmaking

procedures involving the medical management of these infants within health care facilities and make recommendations concerning appropriate procedural mechanisms and submit the report to the Secretary. The Secretary then has discretion to publish the regulations if they are deemed necessary. There is no conclusion as to the magnitude or burden in collecting these findings. Also the bill requires the National Center on Child Abuse and Neglect to study and investigate the incidence of child abuse which involves the denial of nutrition, medically indicated treatment, general care or appropriate social services to seriously ill newborns and submit any such findings within one year. There is no conclusion as to the magnitude or burden in collecting these findings. The coordination efforts contained within this legislation for the Advisory Board on Child Abuse and Adoption Assistance are only to be done at the Secretary's discretion.

VI. Votes in Committee

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes in Committee:

By a rollcall vote of 17–0, the Committee on Labor and Human Resources voted to favorably report the bill as amended.

YEAS	NAYS	NOT VOTING
Hatch		Weicker
Stafford		
Quayle		
Nickles		
Humphrey		
Denton		
Grassley		
East		
Hawkins		
Kennedy		
Randolph		
Pell		
Eagleton		
Riegle		
Metzenbaum		
Matsunaga		
Dodd		

VII. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 19, 1983.

Hon. Orrin G. Hatch,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the

attached cost estimate for S. 1003, the Child Abuse Prevention and Treatment and Adoption Reform Act Amendments of 1983, as ordered reported by the Senate Committee on Labor and Human Resources, May 11, 1983.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimates.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 19, 1983.

1. Bill number: S. 1003.

2. Bill title: Child Abuse Prevention and Treatment and Adoption Reform Act Amendments of 1983.

3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources, May 11, 1983.

4. Bill purpose: The purpose of this bill is to amend and extend the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978. This bill is subject to subsequent appropriations action.

5. Estimated cost to the Federal Government:

[By fiscal years, in thousands of dollars]

	1984	1985	1986	1987	1988
Authorization levels:					
Child Abuse Prevention and Treatment Act	27,500	34,000	35,500	37,080	.....
Adoption opportunities	5,000	5,000	5,000	5,000	.....
Advisory Committee on Seriously Ill Newborns	200	210	220	230	240
Total authorization level	32,700	39,210	40,720	42,310	240
Total estimated outlays	19,293	33,271	39,450	41,507	17,081

The costs of this bill fall within budget function 500.

Basis of Estimate: The costs of this bill for the Child Abuse Prevention and Treatment Act and Adoption Opportunities are the authorization levels specifically stated in the bill. The cost of the advisory committee reflects the cost of other advisory committees with the same size and scope. The estimate assumes full appropriation of authorization levels. Estimated total outlays reflect the current program spending patterns of 59 percent the first year, 31 percent the second year and the remainder the third year.

6. Estimated cost to State and local governments: This bill sets aside $9.5 million in grants to assist states in carrying out child abuse and neglect prevention and treatment programs. In 1983 approximately $7 million went to states for this purpose.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 12, 1982, CBO prepared a cost estimate on H.R. 1904, the Child Abuse Prevention and Treatment and Adoption Reform Act Amendments of 1983, as ordered reported by the House Committee on Education and Labor. H.R. 1904 authorized the programs for four years at lower levels.

9. Estimate prepared by: Deborah Kalcevic.
10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

VIII. THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM AMENDMENTS OF 1983 SECTION-BY-SECTION SUMMARY

AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT (CHILD ABUSE PREVENTION AND TREATMENT PROGRAM)

Duties of the Secretary of Health and Human Services

Section 101(a) would make a technical amendment to section 2(a) of the Child Abuse Prevention and Treatment Act by changing "Health, Education and Welfare" to "Health and Human Services."

Section 101(b) would delete section 2(b)(6) of the Act and substitute new language requiring the Secretary to "study and investigate" the national incidence of child abuse and neglect, including a determination of the extent to which child abuse and neglect are increasing, and a "determination of those incidents of child abuse and neglect which involve the denial of nutrition, medically indicated treatment, general care, or appropriate social services to infants at risk with life-threatening congenital impairments." This provision would also require that the findings and any associated recommendations of such an investigation be submitted to Congress within one year of the enactment of the amendments.

Current law requires the Secretary to "make and complete a full study and investigation" of the national incidence of child abuse and neglect, including a determination of whether it is increasing, but does not include language concerning the denial of treatment and care to infants born with life-threatening congenital impairments.

Section 101(c) would make a technical amendment to section 2(c) of current law deleting the reference to the Secretary as "he."

Sexual abuse definition

Section 102 would amend Section 3 of current law, which defines "child abuse," by adding a more explicit definition of sexual abuse. This new definition would include "the obscene or pornographic photographing, filming or depiction of children, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary."

Grants to States

Section 103 would make a technical amendment to section 4(b)(2)(E) of current law by changing "his" to "the child's"; with respect to confidentiality of records.

Authorization of appropriations

Section 104 would delete section 5 of the Act, which authorizes appropriations through fiscal year 1981, and would authorize appropriations of $27.5 million for fiscal year 1984, $34 million for fiscal

year 1985, $35.5 million for fiscal year 1986, and $37.08 million for fiscal year 1987, of which $9.5 million annually is to be used for grants to States, and $4 million annually is to be used to the identification, treatment and prevention of sexual abuse.

Current law authorizes $7 million for State grants and $10 million for discretionary activities related to child abuse and neglect prevention (P.L. 97–35).

Advisory Board on Child Abuse and Neglect and Adoption Opportunities

Section 105 would amend section 6(a) of current law by deleting language specifying which Federal agencies are to be represented on the Advisory Board on Child Abuse and Neglect, and would add an additional duty for the Board. This new duty would be to assist the Secretary, when requested, in coordinating adoption-related activities of the Federal Government.

Current law requires the Secretary to appoint an Advisory Board, including three members of the general public and representatives of a number of specified Federal agencies. These agencies would no longer be specified under the amendments. The duties of the Advisory Board under current law are to assist the Secretary in coordinating programs and activities relating to child abuse and neglect, and in developing Federal standards for child abuse and neglect prevention.

Section 105(b) would repeal section 6(b) of current law, which requires the Board's review of the comprehensive plan for intergovernmental coordination in child abuse-related matters, and would make a technical amendment redesignating subsection 6(c) of current law as subsection 6(b).

Coordination

Section 106 would make a technical amendment to section 7 of current law, replacing "between" with "among."

Savings provision

Section 107 would add language to current law stating that nothing in the Act "shall be construed to limit the right of a state to determine the health care and treatment a parent may provide his child in the exercise of the parent's freedom of religion." Current law contains no such provision.

AMENDMENTS TO THE CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT (ADOPTION OPPORTUNITIES PROGRAM)

Findings and purpose of the adoption opportunities program

Section 121(a) would amend section 201 of current law broadening the findings by adding a phrase stating that the welfare of thousands of children in institutions and foster homes, infants at risk with life-threatening congenital impairments, and infants born to teenaged, unmarried individuals may be in jeopardy and that some such children are in need of permanent, adoptive homes. Section 121(a) would also add a statement in the findings that children "should not become victims of a denial of medically indicated treatment or nutrition."

Section 121(b) would amend section 201 of current law including infants born with life-threatening congenital impairments among

those for whom the purpose of facilitating the elimination of barriers to adoption and providing permanent homes for children is intended.

Section 121(b) would also delete section 201(2) of current law, which describes the purposes of the adoption opportunities legislation, and would substitute new language outlining the purposes of the legislation. These purposes would be: (1) to promote quality standards for adoption services, including pregnancy counseling which presents adoption as a positive alternative, pre- and post-placement counseling, and standards to protect the rights of children in need of adoption; (2) to coordinate with other Federal agencies, including the Census adoption as a positive alternative, pre -and post-placement counseling, analysis system; and (3) to maintain a national adoption exchange.

Section 201(2) of current law specifies all the above activities except the promotion of standards for pregnancy counseling which present adoption as a positive alternative, and the coordination with other Federal agencies, including the Census Bureau, in setting up the adoption and foster care data gathering system.

State adoption legislation

Section 122 would delete section 202 of current law, which relates to model State adoption legislation, and would replace this section with new language relating to this activity. The new language would direct the Secretary to encourage and facilitate the enactment of comprehensive adoption legislation in all States; to review model adoption legislation in order to propose appropriate changes to facilitate adoption opportunities for infants born with life-threatening congenital impairments; and to coordinate efforts to improve State adoption legislation with State and local child and family service organizations, including organizations representative of minorities and adoptive families. Current law requirements for specific procedures to be followed in creating model adoption legislation would be deleted.

Adoption opportunities activities information and services

Section 123(a)(1) would make a technical amendment to section 203(a) of current law by changing "Health, Education and Welfare" to "Health and Human Services."

Section 123(a)(2) would amend section 203(a), which requires the Secretary to provide for a centralized focus for planning and coordinating all departmental activities affecting adoption and foster care, by expanding this requirement to include additional activities. These activities would be services to facilitate the adoption of children with special needs and those with life-threatening congenital impairments; services to couples considering adoption of children with special needs, couples with infertility problems and other possible adoptive parents; services to individuals, including pregnant adolescents who are considering adoption as an alternative in placement of their infants; and pregnancy counseling, including counseling for unmarried minors which present adoption as a positive alternative.

Section 123(b)(1) would make a technical amendment to section 203(b) of current law by changing "subsection of this section" to "title."

Section 123(b)(2) would delete section 203(b)(1) of current law, which requires the establishment of a national adoption and foster

care data gathering system, and would substitute new language requiring the Secretary, after consultation with other Federal agencies, including the Census Bureau, to provide for the establishment and operation of such a system.

Current law does not require the Secretary to consult with other agencies in developing the system, and allows the Secretary to establish and operate this system either directly or by grant or contract.

Section 123(b)(3) would amend section 203(b) of current law by broadening eligible grant recipients for the provision of training and technical assistance to include adoptive family groups and minority groups, and by adding two new adoption opportunities activities: (1) encouraging involvement of the private sector in supporting adoption, including the establishment of adoption benefit programs; and (2) continuing to study unlicensed and unregulated adoption placements, including the legal status of surrogate parenting.

Authorization of appropriations

Section 124 would authorize appropriations of $5 million annually for the adoption opportunities program for fiscal years 1984, 1985, 1986 and 1987. Current law authorizes a minimum of $2 million annually for discretionary activities related to adoption reform (P.L. 97–35).

Advisory Committee on Seriously Ill Newborns

Section 201 establishes, within the Department of Health and Human Services, an advisory committee on seriously ill newborns. This committee is charged with studying the nature of decision-making procedures in health care facilities involving the treatment and care of seriously ill newborn infants, in order to make recommendations to the Secretary of Health and Human Services.

The Committee, to be appointed by the Secretary of Health and Human Services, is required to be composed of: two employees of the Department of Health and Human Services; five members of the public distinguished in the fields of law, medicine or ethics relating to the care of seriously ill infants; three individuals nominated by national organizations who represent either the hospital industry, or the medical or nursing professions (one of whom must be a medical doctor); and five individuals nominated by national organizations that represent the interest of the handicapped, parents of the handicapped and those concerned with care of handicapped newborn children.

Members of the committee not currently employed by the Federal Government would be remunerated, for each day they work on the committee, including travel time, at a rate not to exceed the rate in effect for GS–18 of the General Schedule. Committee members would also be allowed travel expenses, including a per diem allowance.

Regulations

Section 202 would require the committee, within six months after enactment of these amendments, to study local decisionmaking procedures involving the medical management of seriously ill newborns and based on this study to report recommendations to the Secretary concerning appropriate procedures to be used by hospitals when treating these newborns. Within 60 days after receiving the report the Sec-

retary of Health and Human Services would be required to send copies, with any additional comments, to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor.

Not later than 120 days after receiving the advisory committee's report, the Secretary would propose regulations, if deemed necessary, to establish decision-making procedures within each health care facility concerning the treatment of seriously ill newborns. These regulations would, at a minimum require that "all seriously ill newborns be provided relief from suffering including feeding, and medication for pain and sedation as appropriate." Failure to comply with these regulations would result in a hospital's loss of federal funds, including funds under the Medicare and Medicaid programs.

IX. Changes in Exsistng Law

In compliance with rule XXVI, paragraph 12 of the Standard Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHILD ABUSE PREVENTION AND TREATMENT ACT

(P.L. 93-247, as Amended)

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Sec. 2. (a) The Secretary of [Health, Education and Welfare] *Health and Human Services* (hereinafter referred to in this title as the "Secretary") shall establish an office to be known as the National Center on Child Abuse and Neglect (hereinafter referred to in this title as the "Center").

(b) The Secretary, through the Center, shall—

(1) compile, analyze, publish, and disseminate a summary annually of recently conducted and currently conducted research on child abuse and neglect;

(2) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of child abuse and neglect;

(3) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect;

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect;

(5) conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof;

(6) [make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity; and] *study and investigate the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number and severity and a determination of those incidents of child abuse and neglect which involve the denial of nutrition, medically indicated treatment, general care, or appropriate social services to infants at risk with life-threatening congenital impairments, and to submit such findings to Congress together with such recommendations for administrative and legislative changes as are appropriate within one years after the effective date of the Child Abuse Prevention and Treatment and Adoption Act Amendments of 1983; and*

(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by Section 6 of this title), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after April 24, 1978.

The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

(c) [The Secretary may carry out his functions under subsection (b) of this section] *The functions of the Secretary under subsection (b) of this Section may be carried out* either directly or by way of grant or contract. Grants may be made under subsection (b)(5) of this section for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this title.

DEFINITION

SEC. 3. For purposes of [this title the term] *this title—*

(1) the term "child abuse and neglect" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of eighteen, or the age specified by the child protection law of the State in question, by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary [.], *and*

(2) the term "sexual abuse" includes the obscene or pornographic photographing, filming, or depiction of children, or the rape, moles-

tation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

SEC. 4. (a) The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations thereof) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect. Grant or contracts under this subsection may be—

(1) for training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse and neglect; and training programs for children, and for persons responsible for the welfare of children, in methods of protecting children from child abuse and neglect;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies, and organizations which request such services;

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(4) for such other innovative programs and projects, including programs and projects for parent self-help, and for prevention and treatment of drug-related child abuse and neglect, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

(b)(1) The Secretary, through the Center, is authorized to make grants to the States for the purpose of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;

(B) provide for the reporting of known and suspected instances of child abuse and neglect, *including the establishment of a procedure for any interested person to report to appropriate authorities any known or suspected instance of the denial of nutrition, medically indicated treatment, general care, or appropriate*

social services to infants at risk with life-threatening congenital impairments;

(C) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

(E) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, [his] *and the child's* parents or guardians;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(G) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(H) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this title for any fiscal year will be so used to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(I) to provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; and

(J) to the extent feasible insure that parental organizations combatting child abuse and neglect receive preferential treatment.

If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such periods shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

(3) Programs or projects related to child abuse and neglect assisted under part A or B of title IV of the Social Security Act shall comply with the requirements set forth in clauses (B), (C), (E), and (F) of pargraph (2).

(c) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

[AUTHORIZATIONS

[SEC. 5. (a) There are hereby authorized to be appropriated for the purposes of this title $15,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and for the succeeding fiscal year, $25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 each for the fiscal years ending September 30, 1980 and 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) of this title (relating to research) and 4(a) of this title (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education and Welfare) of national or regional scope and demonstrated effectiveness, and not less than 25 per centum shall be used for making grants or contracts under section 4(b)(1) of this title (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) of this title (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively.

[(b)(1) There are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $4,000,000 each for the fiscal years ending September 30, 1980 and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under section 2(b)(5) of this title (relating to research), 4(a) of this title (relating to demonstration or service projects), and 4(b)(1) of this title (relating to grants to States), for programs and projects (including support of not less than three Centers for the provision of treatment, personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel.

[(2) of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) of this title (relating to research).

[(3) As used in this subsection, the term—

[(A) "sexual abuse" includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

[(B) "child" or "children" means any individual who has not attained the age of eighteen.

[(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) of this section for programs and projects described in subsection (b) of this section, nor be construed to prohibit programs or projects receiving funds under subsection (a) of this section from receiving funds under subsection (b) of this section.

[(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) of this section for any succeeding fiscal year.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. *There are authorized to be appropriated $27,500,000 for fiscal year 1984, $34,000,000 for fiscal year 1985, $35,500,000 for fiscal year 1986, $37,080,000 for fiscal year 1987, to carry out the provisions of this Act. Of the sums appropriated for each fiscal year $9,500,000 shall be available in each fiscal year to carry out the provisions of section 4(b)(1) of this Act, relating to State grants, and $4,000,000 shall be available in each such year for the identification, treatment, and prevention of sexual abuse.*

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT
AND ADOPTION OPPORTUNITIES

SEC. 6. (a) The Secretary shall, within sixty days after January 31, 1974, appoint an Advisory Board on Child Abuse and Neglect (hereinafter referred to as the "Advisory Board"), which shall be composed of representatives from Federal agencies with responsibility for programs and activities related to child abuse and neglect, [including the Office of Child Development, the Office of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Service Administration,] and not less than three members from the general public with experience or expertise in the field of child abuse and neglect. The Advisory Board shall assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered, or assisted under this title with such programs and activities planned, administered, or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and

projects. *The Advisory Board shall be available, at the Secretary's request, to assist the Secretary in coordinating adoption related activities of the Federal Government.*

[(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7) of this title, make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.]

[(c)] (*b*) Members of the Advisory Board, other than those regularly employed by the Federal government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of Title 5, United States Code, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

COORDINATION

SEC. 7. The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination [between] *among* programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

SAVINGS PROVISION

SEC. 8. Nothing in this Act shall be construed to limit the right of a State to determine the health care and treatment a parent may provide his child in the exercise of the parent's freedom of religion.

CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978 (P.L. 95–266)

* * * * * * *

TITLE II—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

SEC. 201. The Congress hereby finds that *the welfare of thousands of children in institutions or foster homes, infants at risk with life-threatening congenital impairments, and infants born to teenaged unmarried individuals may be in serious jeopardy, and that some such infants and children are in need of placement in permanent, adoptive homes; that* many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement;

and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not *become victims of a denial of medically indicated treatment or nutrition, nor* be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs, *including infants at risk with life-threatening congenital impairments*, by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) [providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including pre-placement, post-placement, and post-adoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.] *providing a mechanism for the Department of Health and Human Services to—*

(A) promote quality standards for adoption services, including pregnancy counseling which presents adoption as a positive alternative, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of childen in need of adoption;

(B) coordinate with other Federal departments and agencies, including the Bureau of Census, to provide for a national adoption and foster care information data-gathering and analysis system; and

(C) maintain a national adoption exchange to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

[MODEL ADOPTION LEGISLATION AND PROCEDURES

[SEC. 202. (a) Not later than eighteen months after April 24, 1978, the Secretary of Health, Education and Welfare (hereinafter referred to as the "Secretary") shall issue, based on the recommendations of the panel described in subsection (b) of this section, proposed model adoption legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

[(b)(1) Not later than ninety days after April 24, 1978, the Secretary shall appoint a panel to be comprised of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, national, State, and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

[(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

[(3) Members of the panel, other than those regularly employed by the Federal government, when serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5322 of Title 5, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

[(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures pursuant to subsection (a) of this section.]

STATE LEGISLATION FOR ADOPTION OPPORTUNITIES

SEC. 202. (a) The Secretary shall take such steps as the Secretary deems necessary to encourage and facilitate the enactment in each State of comprehensive legislation for the adoption of infants and children in need of adoption.

(b) The Secretary shall—

(1) review all model adoption legislation and procedures for the purpose of proposing such changes as are considered appropriate to facilitate adoption opportunities for infants at risk with life-threatening congenital impairments;

(2) coordinate efforts to improve State legislation with national, State, and local child and family services organizations, including organizations representative of minorities and adoptive families.

INFORMATION AND SERVICES

SEC. 203. (a) The Secretary shall establish in the Department of [Health, Education and Welfare] *Health and Human Services* an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with appropriate administrative expenses, as are necessary for carrying out such purposes [.], *including services to facilitate the adoption of children with special needs and particularly of children with life-threatening congenital impairments; services to couples considering adoption of children with special needs, couples with infertility problems and other prospective adoptive parents; and services to individuals, including pregnant teenaged children, who are considering adoption as a plan for their infants, and pregnancy counseling, particularly of unmarried minors, which presents adoption as a positive alternative.*

(b) In connection with carrying out the provisions of [subsection (a) of this section] *this title* the Secretary shall—

(1) [provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;] *provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census) for the establishment and operation of a Federal adoption and foster care data-gathering and analysis system;*

(2) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including [parent

groups] *adoptive family groups and minority groups*) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; [and]

(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

(6) continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity, including the legal status of surrogate parenting; and

[(5)](7) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary and provide for the coordination of such aspects of all programs within the Department of [Health, Education and Welfare] *Health and Human Services* relating to adoption.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after April 24, 1978) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, [and] such sums as may be necessary for the succeeding three fiscal years, *and $5,000,000 for fiscal year 1984, and for each succeeding fiscal year prior to October 1, 1987,* to carry out this title.

OTHER LAWS PERTAINING TO THIS ACT

(Note: Authorizations of appropriations for fiscal years 1982 and 1983 was enacted not as part of the Child Abuse Prevention and Treatment Act but as part of the Omnibus Budget Reconciliation Act of 1981, P.L. 97–35, which appears in part at 42 U.S.C. 5107. The complete language of authorization from P.L. 97–35 is as follows:)

OMNIBUS BUDGET RECONCILIATION ACT OF 1981
(P.L. 97–35)

* * * * * * *

CHAPTER 7—CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

STATE GRANTS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 609. There is authorized to be appropriated to make grants to States under section 4(b)(1) of the Child Abuse Prevention and Treatment Act $7,000,000 for each of the fiscal years 1982 and 1983.

DISCRETIONARY PROGRAMS

SEC. 610. (a)(1) The Secretary of Health and Human Services, either directly, through grants to States and public and private, nonprofit organizations and agencies, or through jointly financed cooperative arrangements with States, public agencies, and other agencies and organizations, is authorized to provide for activities of national significance related to child abuse prevention and treatment and adoption reform, including operation of a national center to collect and disseminate information regarding child abuse and neglect, and operation of a national adoption information exchange system to facilitate the adoptive placement of children.

(2) The Secretary, in carrying out the provisions of this subsection, shall provide for the continued operation of the National Center on Child Abuse and Neglect in accordance with section 2(a) of the Child Abuse Prevention and Treatment Act for each of the fiscal years 1982 and 1983.

(3) If the Secretary determines, in fiscal year 1982 or 1983, to carry out any of the activities described in section 2(b) of the Child Abuse Prevention and Treatment Act, the Secretary shall carry out such activities through the National Center on Child Abuse and Neglect.

(b) There is authorized to be appropriated to carry out this section $12,000,000 for each of the fiscal years 1982 and 1983. Of the amounts appropriated under this subsection for any fiscal year, not less than $2,000,000 shall be available to carry out title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978.

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